

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 328 OF 2006

IN

STAMP NUMBER MAIN NO. 763 OF 2006

SHRI SURYAKANT VASSU GURAV,
SATTARI GOA.

....Applicant

Versus

SHRI DATTARAM NARAYAN MADWAL ALIAS
VELUSKAR, SATTARI.

....Respondent

Mr. Virendra R. Parshekar, Advocate for the applicant.

Mr. J. Abreu Lobo, Advocate for the respondent.

Coram:- P.V. KAKADE, J.

Date:- 13th November, 2006

P.C.

Heard both sides. This is an application seeking condonation of delay of 157 days which has occurred in filing the appeal.

2. The applicant submits that he was suffering from acute sudden onset of giddiness, anxiety, neurosis and fracture and that the doctor had warned him not to take mental and physical exertion on account of apparent danger to his life. Hence, he could not attend to the work and as such, the delay was caused. This statement is challenged on behalf of the respondent on the ground that the applicant is a Government Servant and was attending his duties during the period and in support of this statement, a copy of the attendance roll is also filed on record. The applicant has filed medical certificate. In addition to that, rejoinder is filed on behalf of the applicant stating that in fact he was ill, however, he

was compelled by grave circumstances to attend his indispensable work at his village itself. In view of this position, I am of the view that merely because the applicant, who is a Government Servant, attended his duty does not mean that he was not ill, especially in the light of the medical certificate and the affidavit on record.

3. In my considered view, in the interest of both the parties, to get the dispute adjudicated effectively on merits instead of standing on technicalities, I hold that the grounds given by the applicant amount to sufficient explanation.

4. In the result, the application is made absolute in terms of prayer clause (a), on condition that the applicant shall pay Rs.1,000/- towards costs, out of which Rs.500/- shall be donated to the State Legal Services and the remaining amount shall be paid to the respondent within two weeks. The application stands disposed of accordingly.

P.V. KAKADE, J.

ssm.